

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DOUGLAS DINGUS,

Civil No. 05-1298-ST

Plaintiff,

ORDER

v.

CITY OF PORTLAND, PORTLAND POLICE  
BUREAU, STATE OF OREGON, OFFICER  
HONL, OFFICER MCINTYRE, and OFFICER  
CHIN,

Defendants.

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HAGGERTY, Chief Judge:

On February 8, 2006, Magistrate Judge Stewart issued a Findings and Recommendation in this action [24], in which the Magistrate Judge recommended that defendant City of Portland's Rule 12 Motion Against Plaintiff's Complaint [7] should be GRANTED as to defendants Officers Honl, McIntyre, and Chin with prejudice and as to defendant City of Portland without prejudice. The Magistrate Judge also recommended that plaintiff's Motion for Leave to File Amended Complaint [23] should be GRANTED, but only in order to allow plaintiff to plead a viable § 1983 claim against the City of Portland. No objections were filed.

The matter is now before the court pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations" made by a Magistrate Judge. 28 U.S.C. § 636(b)(1). Within ten days of being served with a copy of the Findings and Recommendation, any party may file written objections and the court shall make a *de novo* determination of those portions of the Findings and Recommendation to which objections are made. *Id.* When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate Judge. *Thomas v. Arn*, 474 U.S. 140, 149-150 (1985); *Campbell v. United States District Court*, 501 F.2d 196 (9th Cir. 1974). No clear error appears on the face of the record, and the court adopts Magistrate Judge Stewart's Findings and Recommendation.

### **CONCLUSION**

The Magistrate's Findings and Recommendation [24] is adopted in its entirety. Defendant City of Portland's Rule 12 Motion Against Plaintiff's Complaint [7] is GRANTED as to defendants Officers Honl, McIntyre, and Chin with prejudice and as to defendant City of Portland without prejudice. Plaintiff's Motion for Leave to File Amended Complaint [23] is GRANTED, but only in order to allow plaintiff to plead a viable § 1983 claim against the City of Portland.

IT IS SO ORDERED.

Dated this 10 day of March, 2006.

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/s/Ancer L.Haggerty  
ANCER L. HAGGERTY  
United States District Judge